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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/018,050	01/18/2002	Bernard Louis Dit Picard	5592	6146

7590

09/23/2003

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EXAMINER

BOYD, JENNIFER A

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/018,050	Applicant(s) LOUIS DIT PICARD, BERNARD	
	Examiner Jennifer A Boyd	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2002.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 13-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other:  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 13 – 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gerhartl et al. (US 5,480,699) in view of Koczab (US 5,843,064).

Gerhartl is directed to a pad for applying liquid or semi-solid material pertaining to hygiene, cosmetic and medicinal articles (Title and column 1, lines 10 – 15).

As to claim 13, Gerhartl teaches a pad having at least two plies, at least one layer being absorbent and both outer layers being compressed (column 1, lines 40 – 45). The two outer layers are equated to Applicant's "first outer layer" and "second outer layer". Gerhartl teaches that the pad can be made of cotton (column 2, lines 14 – 20).

As to claim 16, Gerhartl teaches that the pad can comprise three continuous card web faces having a total weight of approximately  $350 \text{ g/m}^2$  (column 2, lines 55 – 60). Therefore, the two outer layers, "first outer layer" and "second outer layer", would have a surface weight of *at least*  $8 \text{ g/m}^2$ .

As to claim 17, Gerhartl teaches that the pad can have a fully absorbent intermediate layer (column 1, lines 43 – 45), equated to Applicant's "core layer".

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As to claim 18, Gerhartl teaches that the outer surfaces, or “first outer layer” and “second outer layer”, is calendared with a waffle pattern. One of the surfaces has a very close pattern and the other has a very widely spaced pattern (column 2, lines 47 – 53).

As to claims 21 and 22, Gerhartl teaches that the outer surfaces are calendared (column 1, lines 63 – 65).

As to claim 24, Gerhartl teaches that the pad can be manufactured with known machines by hydrodynamic methods (column 2, lines 37 – 39). It is known in the art that hydrodynamic methods for creating composites involve water jets.

As to claims 23 and 25 - 26, Gerhartl teaches that at least one layer has a cosmetic or medically active ingredient (column 1, lines 55 – 58). Gerhartl suggests that one cosmetic ingredient can be a cleansing cream (column 1, lines 50 – 55). It is known that a cosmetic cleansing cream would remove makeup.

As to claims 13 – 15, Gerhartl fails to teach that the “first outer layer” comprises fine fibers exhibiting a low micronaire value and the “second outer layer” exhibiting a micronaire value higher than the low micronaire value of the first layer.

Koczab is directed to a multilayer nonwoven material relating to absorbent articles for hygiene (column 1, lines 1 – 30). Koczab teaches a nonwoven material with various superposed layers consisting of fibers whose denier varies from one layer to the next with a progressive decrease from an inner or surface layer to an outer or base layer (column 3, lines 15 – 20). Koczab teaches that the pad may consist of any suitable natural or synthetic fiber including cellulose (column 3, lines 23 – 27). In one embodiment, layer 4 has a fiber denier ranging from

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1.7 – 3.2 denier (4.80 – 9.04 micronaire), equated to Applicant's "second outer layer", and the adjacent layer 5 has a denier of 0.8 - 1.6 denier (2.26 – 4.52 micronaire), equated to Applicant's "first outer layer", (column 3, lines 50 – 57). It should be noted that micronaire is measured in micrograms per inch and denier is measured in grams per 9000 meters, therefore, the relationship between micronaire and denier is  $\text{micronaire} = \text{denier} / 0.354$ .

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the layer having a denier range of 1.7 – 3.2 of Koczab as the second outer layer and the layer having the denier range of 0.8 – 1.6 of Koczab as the first outer layer in the pad of Gerhartl motivated by the desire to have a pad with a high rate of drying out, improved rate of entry and good diffusion of fluids in the plane of the layers (Koczab, Abstract). It should be noted that the combination of Gerhartl in view of Koczab meet the micronaire requirements and, therefore, should inherently provide a soft side on the layer of the lower micronaire and a scraping surface on the layer of the higher micronaire.

As to claims 19 – 20 and 24, Gerhartl in view of Koczab discloses the claimed invention except for the spacing between the striations of the first outer layer is between 0.4 and 1.2 mm and the spacing between the striations of the second outer layer is between 1.2 and 3 mm as required by claim 19, the first outer layer comprises striations of mutual spacings between 0.4 and 1.2 mm and the second outer layer comprises striations in a sequence comprising several sets of striations that is between 0.4 and 1.2 mm and each set of striations is separated by another set of striations by a distance of between 1.2 and 4 mm as required by claim 20 and the water jets in the manufacturing line are mutually spaced apart by a distance that differs for the water jets used on the first outer layer and the second outer layer as required by claim 24. It should be noted that

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the spacing of the striations and the spacing of the water jets are result effective variables. For example, as the spacing of the striations increase, the layer becomes less abrasive. As the spacing of the water jets increase, the spacing of the striations increase. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the spacing between the striations of the first outer layer is between 0.4 and 1.2 mm and the spacing between the striations of the second outer layer is between 1.2 and 3 mm as required by claim 19, the first outer layer comprises striations of mutual spacings between 0.4 and 1.2 mm and the second outer layer comprises striations in a sequence comprising several sets of striations that is between 0.4 and 1.2 mm and each set of striations is separated by another set of striations by a distance of between 1.2 and 4 mm as required by claim 20 and the water jets in the manufacturing line are mutually spaced apart by a distance that differs for the water jets used on the first outer layer and the second outer layer as required by claim 24, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). In the present invention, one would have been motivated to optimize the spacing between the striations of each layer and the spacing of the water jets when producing each layer to create an appropriately soft layer and durable layer for the pad.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer A Boyd whose telephone number is 703-305-7082. The examiner can normally be reached on Monday thru Friday (8:30am - 6:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9306 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

  
Jennifer Boyd  
September 13, 2003

